

Court on its own motion Vs. NHAI & ors.

CWPIL No.249 of 2017

14.10.2024 Present: Mr. Ajay Siphya, Advocate as Amicus Curiae.

Mr. K.D. Shreedhar, Senior Advocate with Ms.Shreya Chauhan, Advocate, for respondent No.1/NHAI.

Mr. Balram Sharma, Deputy Solicitor General of India, for respondent No.2.

Mr. I.N.Mehta, Senior Additional Advocate General with Ms. Sharmila Patial, Mr. Navlesh Verma, Additional Advocates General and Mr. Raj Negi, Deputy Advocate General, for the respondent-State.

None for respondent No.6.

Mr. Ajay Kochhar, Senior Advocate with Mr. Sunil Mohan Goel and Mr. Anubhav Chopra, Advocates for the proposed applicants.

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Learned counsel for respondent No.1/NHAI prays for and is granted two days' further time to file reply.

List on **16.10.2024**.

CMP No. _____ of 2024

On 01.10.2024, this Court passed the following order:-

“ CMP No.17159 of 2024

Learned Amicus Curiae has filed this application to bring on record certain documents. Perusal of the application goes to show that probably no DPR has been prepared in the instant case for the construction of road qua Solan-Kaithlighat Section and yet the road is being constructed and is nearing its completion. How the road without DPR has been constructed is a matter of serious concern, therefore, let the NHAI file its response to this application before the next date of hearing.

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It has been informed by learned Advocate General that the super specialty hospital at Chamyana has been built at a cost of more than 100 crore rupees and in this super specialty hospital, the machines alone are worth several crores and are lying idle/unutilized and it is a project of public importance. Though the building is

complete and the machinery has been put in place, but it is only on account of lack of proper road that the hospital has not become functional/operational and as a matter of fact its operation has been stayed by the learned Principal Bench of this Court only because of this reason.

Given the fact that this is a project of public importance, it requires a proper connectivity and for that purpose, it has to be ensured that there is a proper road connecting the hospital and the same is wide enough to ensure that two small vehicles can cross each other. It was keeping in view this object that this Court on 13.09.2024, passed the following order:-

“The Chief Secretary to the Government of H.P., Secretary (PWD), Secretary (Health), Engineer-in-Chief, HPPWD, Principal and Medical Superintendent, IGMC, Shimla and Principal, AIMSS Chamyana, Shimla shall personally visit the Hospital at Chamyana and submit their respective reports as to how they propose to provide at least a total land for road from Bhattakuffar to the hospital at Chamyana. List on 17.09.2024, on which date, Engineer-in-Chief, HPPWD, shall personally appear before this Court. In the meantime, positive instructions be imparted by the newly added respondent No. 12, failing which, Deputy Chief Engineer of respondent No. 12 shall personally appear before this Court on the next date of hearing.”

Today, we are informed at the Bar that the demarcation is being carried out on the road leading from Bhattakuffar to the Hospital at Chamyana (Shimla) and certain encroachments have been found on the Government land. If there are such encroachments, then, we direct the concerned authorities to afford an opportunity to the encroachers to themselves demolish/vacate the encroachments/structures till 13.10.2024, The Executive Engineer, PWD, Division No.1, Shimla is directed to file a status report on the next date. The Court shall then proceed to pass appropriate order against those of the encroachers or those who have raised unauthorized constructions/projections and have not demolished/removed the same.

It is made clear that no Court/Authority in the State of H.P. will entertain any petition/suit etc. pertaining to the subject matter, i.e. the encroachments on the road leading from Bhattakuffar to the hospital at Chamyana, Shimla. It is further made clear that if anyone is aggrieved by the action of the respondents with regard to removal of the above mentioned encroachments/unauthorized constructions on the government land, he/she is at liberty to approach this Court.

List on 14.10.2024, when a fresh status report be filed.

Further we are also informed by learned Amicus Curiae that the alignment of Shimla-Matour road on the stretch between Shimla to Nauni, has been re-designed and changed to confer illegal benefit to certain person(s).

This indeed is a serious matter. Let NHAJ, file an affidavit to this effect on the next date of hearing.”

It is on account of passing of this order that some of the aggrieved persons have filed this application.

Since the issue raised in this application is different from the issue which arises in this CWPII, therefore, let it be registered separately by the Registry and order dated 01.10.2024, pertaining to the encroachments on the road leading from Bhattakuffar to the Hospital at Chamyana (Shimla) be placed on that file.

List the matter for consideration on **22.10.2024**.

Till then, order dated 01.10.2024 regarding removal of unauthorized constructions/projections is ordered to be kept in abeyance.

(Tarlok Singh Chauhan)
Judge

(Sushil Kukreja)
Judge

October 14, 2024
(VH)